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Written statement* submitted by the BADIL Resource Center for Palestinian Residency and Refugee Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Settler attacks on Palestinians are a natural result of official Israeli policy

On July 31st, 2015, Jewish Israeli settlers entered the Palestinian village of Duma, located roughly equidistant between Ramallah and Nablus, and threw Molotov cocktails into the home of the Dawabsheh family as they slept. Ali Dawabsheh, aged 18 months, was burned to death in the attack whilst his father, Saad, sustained burns to 80% of his body and later died in hospital. Ali's mother, Reham, sustained burns to 90% of her body and – at the time of writing - remains in critical condition. This brutal attack echoes that which resulted in the death of Mohammed Abu Khdeir, aged 16 and kidnapped by settlers on the 2nd of July 2014, before being burned alive.

In response to these murders, Israeli officials issued strong condemnation both of the acts and the perpetrators, decrying the attacks as isolated incidents of extremism. Such a response, however, reveals a logical disconnect, ignoring the central role that the Israeli state plays in facilitating and, in many cases, effectively encouraging acts of settler violence directed against Palestinians. To this end, Israel is in clear breach of its obligations under a host of international treaties, including the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

The issue of settler violence is significant. Between January and July (inclusive) 2015, the United Nations Office for Coordination of Humanitarian Assistance (OCHA) recorded 42 incidents of settler attacks inside the occupied Palestinian territory (oPt) which resulted in Palestinian casualties, and 78 incidents resulting in property damage. In 2014, a total of 107 incidents resulting in Palestinian casualties were recorded, alongside 217 resulting in property damage.[1]

These attacks are the direct and natural result of two strands of Israeli government policy; those of continued implantation of Jewish settlers inside the oPt – in clear and direct contravention of international law - and of almost complete impunity for crimes subsequently committed by those settlers.

Regarding the first strand, there are now an estimated 547,000[2] Jewish-Israeli settlers throughout the oPt. This staggering – and growing - figure is achieved through a variety of means, including large-scale settlement construction, financial incentives to encourage settlement population, and the retroactive legalization of settler 'outposts'. As of July 2015, this latter process is set to be expedited following the creation of a committee by Israeli Justice Minister, Ayelet Shaked – who has previously labeled the Palestinian people as the 'enemy', and 'snakes' - for this specific purpose.[3]

Such measures represent the physical manifestation of pledges made by Benyamin Netanyahu in March 2015 during his campaign to be re-elected as Prime Minister of Israel. During this campaign, Netanyahu conducted press conferences from Israeli settlements, attended rallies organized by hard-line pro-settlement activists and unequivocally declared that, under his leadership, there would be no establishment of a Palestinian state.

As such, with Netanyahu's re-election comes the promise of a continuation in the steady growth of the overall settler population, and with this growth comes the increased potential for attacks on neighboring Palestinian communities. To this end, the second policy 'strand' – that of apparent impunity for settlers who commit such attacks – serves to actively encourage the commission of these acts.

According to Yesh Din, between 2005 and 2014, just 7.4% of investigations into settler attacks on Palestinians and Palestinian property resulted in indictments, whilst 85.2% of these files were closed due to inadequate investigation by

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1 OCHA. July 2015. *Protection of Civilians*. Available at: http://www.ochaopt.org/poc/poc14july-27july.pdf

2 B'tselem, May 2015. *Statistics on Settlements and Settler Population*. Available: http://www.btselem.org/settlements/statistics

3 Jerusalem Post. 22/07/15. Shaked's 'fast track' panel aims to legalize West Bank outposts. Availablet: http://www.jpost.com/Israel-News/Politics-And-Diplomacy/Shakeds-fast-trackpanel-aims-to-legalize-West-Bank-outposts-409750

the Israeli police.[4] This systematic failure to punish perpetrators of hate crimes offers no deterrent to those planning such acts, and also may be viewed as, at a minimum, tacit acceptance of these crimes by the Israeli establishment. This injustice is further compounded by the application to Jewish-Israeli settlers of Israeli civil law, compared to the much harsher provisions of Israeli military law to which Palestinians in the same territory are subject. In March 2012, the UN Committee on the Elimination of Racial Discrimination stated its extreme concern:

> *[A]t the consequences of policies and practices which amount to de facto segregation, such as the implementation by [Israel] in the Occupied Palestinian Territory of two entirely separate legal systems and sets of institutions for Jewish communities grouped in illegal settlements on the one hand and Palestinian populations living in Palestinian towns and villages on the other hand.*[5]

Moreover, Israel's construction and expansion of settlements is necessarily preceded by unlawful land acquisition and the forcible transfer of Palestinians. This is a process pursued through Israel's implementation of a legal system geared towards the protection of its own strategic interests. Local planning legislation is subject to cynical interpretation or widespread change through a web of Military Orders – introduced in clear and direct contravention of International Humanitarian Law – whilst key procedural safeguards intended to protect communities from forced displacement are disregarded by Israel or are entirely absent.

These means of land expropriation and forcible population transfer are made possible through Israel's unfettered administrative control of Area C; allowing the occupying power to strengthen its grip on Palestinian territory through the criminalizing of Palestinian presence and, therefore, the 'legalizing' of their removal, followed by massive settlement construction. This has produced a gradual transition from the temporary custodian role envisaged for Israel in the Oslo Agreements, to that of *de facto* sovereign power, yet, it is a process which continues today largely unchecked, with numerous Palestinian communities in Area C on the brink of destruction.

In April 2015, a representative of the Israeli Civil Administration (ICA) visited the village of Abu Nwar, located in what has become known by the international community as the 'E1' area, to inform residents that they were slated for transfer, with 34 families to be transferred to the al Jabal West relocation site (the ground works of which are now approaching completion) adjacent to the Abu Dis garbage disposal dump, and the remaining families to be transferred to other locations at a later date. It was made clear by the ICA representative, Dov Sedaka, that no members of the community would be permitted by the ICA to remain in the area. In August 2015, representatives of the ICA returned to Abu Nwar to issue demolition orders against those structures which had previously received stop-work orders.

These are the initial steps in the execution of Israel's 'Nuweima Plan', which would see all remaining Palestinian Bedouin communities in the central West Bank forcibly transferred to three urban townships: the first at the existing al Jabal site, and the two largest - Nuweimeh North and Armonot Hashmonaim, with a planned combined capacity of 12,500 individuals – to be built in the Jordan Valley. In addition to creating an intolerable living environment for Palestinian residents of Area C - characterized by a host of severe violations of fundamental human rights - the inherently systematic nature of these plans give rise to credible claims of crimes against humanity.

The Nuweima Plan - and the wider Israeli settlement enterprise under which it operates - highlights the hypocrisy of the Israeli government's response to the killing of Ali and Saad Dawabsheh. This attack and the hundreds of other violent incidents perpetrated against Palestinians by Jewish Israeli settlers annually across the West Bank, including East Jerusalem, are a direct result of official government policy; a policy which routs Palestinians from their land, implants Jewish settlers on a mass scale and applies legal frameworks which elevate the rights of settlers above those of the occupied Palestinian populace, bestowing on the former almost complete impunity for crimes committed against the latter.

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[4] Yesh Din, Nov 2014. Data Sheet: Increase in Rate of Police Investigation Failure in cases of Ideological Offences against Palestinians. Available: http://www.yesh-din.org/infoitem.asp?infocatid=636

[5] *CERD/C/ISR/CO/14-16* ,http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ISR.CO.14-16.pdfpara.24

Were the Israeli government sincere in its denunciation of settler violence, it would immediately begin to dismantle the systems and structures which make this violence possible. Yet, to the contrary, it continues to pursue settlement construction apace. For as long as this is allowed to continue, so too will the murder of Palestinian civilians.

Accordingly, the BADIL Resource Center for Palestinian Residency and Refugee Rights:

I. Calls upon all High Contracting Parties to honor their obligation under Common Article 1 of the Fourth Geneva Convention to take all available measures to halt Israel's implantation of Jewish settlers into the oPt;

II. Calls for member states, UN bodies and regional actors to recognize and condemn the role played by Israel's twin policies of settlement construction/expansion and inadequate investigation of settler-perpetrated crimes against Palestinians, in the commission of violent attacks by settlers on Palestinian individuals and communities;

III. Calls for member states, UN bodies and regional actors to highlight Israel's unlawful application of separate legal systems for Palestinians and Jewish settlers inside the oPt, specifically, how such an application achieves a clear separation of these communities along racial lines.